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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,665	10/23/2001	Alexander Robert Powell	511-019-2	2391 10
4955	7590	09/03/2003		EXAMINER
WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468			BEISNER, WILLIAM H	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/045,665	POWELL, ALEXANDER ROBERT
	Examiner	Art Unit
	William H. Beisner	1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 23 Oct. 2001 (Preliminary Amendment).

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 1-5 is/are allowed.

6) Claim(s) 6-9 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 23 October 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 and 9.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statements filed 23 Oct. 2001 and 10 April 2002 have been considered and made of record.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Bloom (US 3,139,224).

The reference of Bloom discloses a cap (20) that can be used with a roller bottle. The cap (20) includes a supply/drain connection (46) arranged at the lowest point of the cap when the bottle is vertically inverted. The cap also includes a snorkel tube (86) extending upward through the fluid substantially along the central longitudinal axis of bottle (10).

4. Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Nesset (US 2,500,199).

The reference of Nesset discloses a cap (12) that can be used with a roller bottle. The cap (12) includes a supply/drain connection (14) arranged at the lowest point of the cap when the

bottle is vertically inverted. The cap also includes a snorkel tube (20) extending upward through the fluid substantially along the central longitudinal axis of bottle (10).

5. Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Paisley et al.(US 2,100,610).

The reference of Paisley et al. discloses a cap (2) that can be used with a roller bottle. The cap (2) includes a supply/drain connection (17) arranged at the lowest point of the cap when the bottle is vertically inverted. The cap also includes a filtered (1) snorkel tube (6) extending upward through the fluid substantially along the central longitudinal axis of bottle (4).

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Paisley et al.(US 2,100,610) in view of Labonte (US 5,301,845).

The reference of Paisley et al. has been discussed above.

While the reference of Paisley et al. discloses the use of graduations on the exterior of the bottle (See Figure 1), claim 8 differs by reciting that the snorkel tube includes graduations along the length of the tube.

The reference of Labonte discloses that it is known in the art to provide a tube (13) within a dispensing bottle (13) with graduations (14) (See Figure 1).

In view of this teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide graduations on tube (6) rather than bottle (4) of the primary reference for the known and expected result of providing an alternative means recognized in the art for providing graduations in which the contents of the bottle can be compared with so as to determine volumetric transfer of liquids from the bottle.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Paisley et al.(US 2,100,610) in view of Churchill et al.(US 2,605,021).

The reference of Paisley et al. has been discussed above.

Claim 9 differs by reciting that the snorkel tube includes a fluid trap device.

The reference of Churchill et al. discloses that it is known in the art to provide a vent snorkel (77) within a bottle with a liquid trap device (79) for preventing liquid from entering the vent tube (77) (See column 6, lines 41-72).

In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide the vent tube (6) of the primary reference with a liquid trap as disclosed by the reference of Churchill et al. for the known and expected result of preventing liquid from entering the vent pipe.

***Allowable Subject Matter***

10. Claims 1-5 are allowed.

11. The following is a statement of reasons for the indication of allowable subject matter:

While the prior art of record discloses a culture device that includes a rotor structure for supporting a plurality of culture vessels and the prior art suggest the use of a tilt mechanism to partially tilt the vessels to ensure complete emptying of the vessels in combination with a pressure differential and manifold system, the prior art of record fails to teach or fairly suggest providing the culture device with a mechanism that allows the vessels to be tilted to a substantially vertical position and wherein each vessel includes a cap equipped with a fluid supply/drain connection and snorkel tube arrangement as recited in the claims.

***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Beisner whose telephone number is 703-308-4006. The examiner can normally be reached on Tues. to Fri. and alt. Mon. from 6:40am to 4:10pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



William H. Beisner  
Primary Examiner  
Art Unit 1744

WHB